

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 51 is currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 51-64, 73, and 74 are now pending in this application.

The Office Action states that the oath or declaration is defective because it has not been dated. Applicant notes that M.P.E.P. 602.05 states:

The Office no longer checks the date of execution of the oath or declaration and the Office will no longer require a newly executed oath or declaration based on an oath or declaration being stale (that is, when the date of execution is more than 3 months prior to the filing date of the application) or where the date of execution has been omitted. However, applicants are reminded that they have a continuing duty of disclosure under 37 CFR 1.56. (Emphasis added).

Applicant thus submits that the originally filed declaration is not defective.

Claims 51-63, 73, and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reddy (USP 4,834,113) in view of Morton (USP 2,097,528) or Shlenker et al. (USP 5,338,565), or Raiche (USP 2,266,263) or Sidnell (USP 2,838,047).

The Office Action states:

Regarding claim 51, Reddy teaches a method of producing a prophylactic device comprising: providing a form for a casting include a portion configured to produce a panty and a portion configured to produce a pouch, wherein the panty includes a crotch portion and wherein the pouch is disposed on the crotch portion of the panty (Figure 12; col. 9, lines 38-49; Figure 18). Reddy further teaches producing the form by a conventional double dip process, but do not provide the details outlining the double dip process. However, Morton (page 1, col. 1, lines 1 - col. 2, lines 45; page 2, col. 1, lines 17-63), Shlenker (Abstract; col. 1, lines 35-62; col. 2, lines 7-61), Raiche (page 1, col. 1, lines 5-49; page 1, col. 2, lines 22-40; page 2, col. 1, lines 23-31) and Sidnell (col. 1, lines 15-29; col. 1, line 62 - col. 2, line 40; col. 3, lines 57 - col. 4, line

2) individually and analogously disclose double dip processes for production of latex articles.

Therefore, it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to combine the double dip processes disclosed by Morton, Shlenker, Raiche, or Sidnel to execute the double dip process generically disclosed by Reddy for the purpose, as disclosed by Morton, of controlling the thickness of distinct sections of the product (page 1, col. 1, lines 1-17), or for the purpose, as disclosed by Shlenker, of introducing a biocide into the product (Abstract), or for the purpose, as disclosed by Sidnell, of producing a water proof product of desired final thickness (col. 4, lines 1-2).

As acknowledged by the Office Action, Reddy does not disclose details of a double dipping process. The Office Action asserts that Morton, Shlenker, Raiche, and Sidnell disclose the details of the double dipping method of independent claim 51. Applicant respectfully disagrees.

Morton describes methods of making rubber articles. A first dipping method described by Morton includes dipping a form in a latex coagulant, then dipping the form to a desired depth in a solution of a suitable neutralizing agent, and then dipping the form into latex (see Morton, col. 1, line 31 – col. 2, line 19). Morton describes a second dipping method that includes dipping a form into a latex coagulant (calcium chloride), then dipping the form into latex, then dipping the form into a neutralizing agent (sodium hydroxide to neutralize coagulant on outer surface of latex), and then again in latex (see Morton, page 1, col. 2, line 20 – col. 2, line 44). Morton also describes a third dipping method of dipping a form into latex, then applying coagulant to the latex, then neutralizing a portion of the coagulant, and then proceeding as above (see Morton, page 1, col. 2, line 45 – col. 2, line 54). Morton further describes using a solvent, rather than a neutralizing agent, to remove a portion of the coagulant from the form (see Morton, page 2, col. 1, lines 17-41). All of Morton's methods involve dipping a form into a coagulant and then dipping the form into a solution that neutralizes, reduces the effectiveness, or dissolves the coagulant.

Morton does not disclose, teach, or suggest “dipping the form into a first coagulant until the pouch casting portion and the panty casting portion are submerged in the first coagulant; dipping the form into a second coagulant until the pouch casting portion is submerged in the second coagulant; dipping the form into latex a first time until the pouch casting portion and the panty casting portion are submerged in the latex; [and] dipping the

form into the latex a second time until the pouch casting portion is submerged in the latex, such that a thickness of the panty casting is greater than a thickness of the pouch casting,” as recited in independent claim 51.

Shlenker et al. describes a method of forming a membrane (such as a condom) with a biocide barrier. According to Shlenker et al.’s method, a form is coated with a coagulant, then dipped into latex, then dipped into a biocide, and then dipped again in latex (see Shlenker et al., Abstract, col. 1, lines 35-62). Shlenker’s method involves double dipping the form in latex to increase the thickness of the latex (see Shlenker et al., col. 2, lines 43-46), and, in fact, the biocide causes the second layer of latex to be relatively thicker than is normally achieved without any biocide solution (see Shlenker et al., col. 2, lines 58-61).

Shlenker et al. does not disclose, teach, or suggest “dipping the form into a first coagulant until the pouch casting portion and the panty casting portion are submerged in the first coagulant; dipping the form into a second coagulant until the pouch casting portion is submerged in the second coagulant; dipping the form into latex a first time until the pouch casting portion and the panty casting portion are submerged in the latex; [and] dipping the form into the latex a second time until the pouch casting portion is submerged in the latex, such that a thickness of the panty casting is greater than a thickness of the pouch casting,” as recited in independent claim 51.

Raiche describes manufacture of rubber articles that includes dipping a form into a liquid coagulant, and then dipping the form into a latex solution (see Raiche, page 1, col. 1, lines 27-35 and page 2, lines 22-39). Thus, Raiche describes dipping only once into coagulant and only once into latex.

Raiche does not disclose, teach, or suggest “dipping the form into a first coagulant until the pouch casting portion and the panty casting portion are submerged in the first coagulant; dipping the form into a second coagulant until the pouch casting portion is submerged in the second coagulant; dipping the form into latex a first time until the pouch casting portion and the panty casting portion are submerged in the latex; [and] dipping the form into the latex a second time until the pouch casting portion is submerged in the latex, such that a thickness of the panty casting is greater than a thickness of the pouch casting,” as recited in independent claim 51.

Sidnell describes a method of making liquid-proof panties that includes treating a form with a coagulant, dipping the form into latex, treating the form with coagulant again, and dipping the form into latex again (Sidnell, col. 3, line 57 – col. 4, line 2). Sidnell dips the form twice into latex to achieve uniform thickness (see Sidnell, col. 1, lines 62-69). In addition, dipping the form into coagulant a second time is to make the latex thicker (see Sidnell, col. 4, lines 1-2).

Sidnell does not disclose, teach, or suggest “dipping the form into a first coagulant until the pouch casting portion and the panty casting portion are submerged in the first coagulant; dipping the form into a second coagulant until the pouch casting portion is submerged in the second coagulant; dipping the form into latex a first time until the pouch casting portion and the panty casting portion are submerged in the latex; [and] dipping the form into the latex a second time until the pouch casting portion is submerged in the latex, such that a thickness of the panty casting is greater than a thickness of the pouch casting,” as recited in independent claim 51.

Thus, the method of producing a prophylactic device recited in independent claim 51 would not have been obvious in view of Reddy and/or Morton, Shlenker et al., Raiche, or Sidnell. Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 51, and its dependent claims 52-63, 73, and 74, under 35 U.S.C. § 103(a).

Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reddy (USP 4,834,113) in view of Morton (USP 2,097,528) or Shlenker et al. (USP 5,338,565) or Raiche (USP 2,266,263) or Sidnell (USP 2,838,047) as applied to claims 51-63, 73, and 74 and further in view of Gammeter (USP 1,951,402) or Shaller (USP 6,440,498) or Ambrose (USP 2,749,549).

Even assuming, *arguendo*, that Gammeter, Shaller, and Ambrose provide the teachings asserted by the Office, they fail to remedy the deficiencies of Reddy, Morton, Shlenker et al., Raiche, and Sidnell described above in regard to independent claim 51. As claim 64 depends from claim 51, claim 64 is patentable over Reddy in combination with Morton, Shlenker et al., Raiche, or Sidnell in further combination with Gammeter, Shaller, or Ambrose.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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